

Appl. No. 09/408,943
Amendment and/or Response
Reply to Office action of 2 April 2004

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REMARKS

Claims 1-2, 4-10, and 13-18 are pending in this application.

The Examiner has rejected:

claims 1 and 14 under 35 U.S.C. 102(b) over Duhamel et al. (USP 5,541,585, hereinafter Duhamel);

claims 2, 6-10, 13, and 15-18 under 35 U.S.C. 103(a) over Duhamel and Nickum (USP 6,359,661);

claim 4 under 35 U.S.C. 103(a) over Duhamel and D'Angelo et al. (USP 6,265,974, hereinafter D'Angelo); and

claim 5 under 35 U.S.C. 103(a) over Duhamel, D'Angelo, and Kushiro et al. (USP 6,285,357, hereinafter Kushiro).

The applicants respectfully traverse these rejections, based on the remarks submitted in the applicants' prior response, and based on the following remarks.

Each of the applicants' independent claims 1, 8, 10, and 14 include a gatekeeper device that *selectively transmits* a user identification in response to a communication from an apparatus that is configured to modify its behavior based upon receipt of the user identification.

Duhamel teaches a conventional RFID device 18 that communicates an identifier in response to an interrogation signal from an apparatus 16, without any input from the user. In an example embodiment, when a person carrying the RFID device approaches a doorway that is 'keyed' to the identifier, the apparatus unlocks the door, activates lights, enables appliances, and so on.

In each of the rejections, the Examiner relies upon Duhamel for teaching "a gatekeeper device (18) (i.e. a portable transceiver) that is configured to *selectively* transmit a user identification only (i.e. an identification code), in response to receipt of a communication from an apparatus (16)" (Office action, page 3, lines 8-10, emphasis added). The applicants respectfully disagree with this characterization of Duhamel.

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In the "Response to Arguments" section of the final Office action, the Examiner acknowledges that Duhamel's device *automatically* transmits a user identification in response to an interrogation signal (Office action, page 3, lines 1-2).

The Office action argues that, in Duhamel, "the portable receiver selectively selected a unique identification code to transmit to a fixed transceiver" (sic, page 3, lines 14-15). The applicants respectfully disagree with this characterization of Duhamel. Duhamel teaches that each portable transceiver, or each group of transceivers, has an associated unique code. Presumably, this unique code is assigned to the device during manufacture or sale. Fixed receivers "learn" this code and subsequently grant access or control based on receiving the unique code. Duhamel is silent with regard to the transceiver selecting from among a plurality of available codes.

However, even assuming in argument that the receiver may be configured to select the code that is transmitted, this does not correspond to selectively transmitting a user identification, as taught and claimed by the applicants.

The Office action apparently argues that

"automatically transmitting a selectively selected identification code"
is equivalent to

"selectively transmitting an identification code".

The applicants respectfully maintain that such an interpretation is inconsistent both grammatically and syntactically. In the applicants' claim, the word "selectively" is an *adverb*, and as such, it modifies the *verb* "transmit". "Selectively", as an adverb, cannot modify the noun phrase "user identification". Conversely, in the Office action's "selectively selected identification code", the adverb "selectively" modifies the verb "selected", whose object is the identification code, and does not modify the verb "transmit". As such, the applicants respectfully maintain that "automatically transmitting a selectively selected identification code" cannot be said to read upon "selectively transmitting an identification code", as asserted in the Office action.

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Further, in accordance with MPEP 2111: "During patent examination, the pending claims must be given their broadest reasonable interpretation *consistent with the specification*." The specification is clear that the applicants' device selectively transmits a user identification, in that the device can be configured to either transmit a response or not, and the application does not teach or suggest automatically transmitting a selectively selected user identification, as interpreted by the Examiner.

Because Duhamel neither teaches nor suggests *selectively* transmitting a response signal, as claimed by the applicants, and specifically teaches against the applicants' claimed invention by teaching *automatically* transmitting the response, the applicants respectfully request the Examiner's reconsideration of the above rejections over Duhamel.

In view of the foregoing, the applicants respectfully request that the Examiner withdraw the rejections of record, allow all the pending claims, and find the present application to be in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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